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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,103	06/26/2003	Brian Geraghty	202-1607	1102

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EXAMINER

ELKINS, GARY E

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/604,103		GERAGHTY ET AL.	
	Examiner		Art Unit	
	Gary E. Elkins		3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-9, 12 and 14-18 is/are rejected.
- 7) ☒ Claim(s) 10, 13, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2-4, 7-9, 12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hart, Jr. Hart, Jr. discloses a container including a pair of compartments including a forward compartment with a panel 64 on the front wall of the compartment which provides a resistance to penetration greater than the remaining portions of the body, i.e. the panel and the front wall of the compartment has a resistance to penetration greater than the other body panels. With respect to claims 3 and 4, the container in Hart, Jr includes a ledge formed by the upper edges of the container. No distinction is seen between the container claimed and that in Hart, Jr as a result of the claimed intended use of the ledge or upper edge to seat a lid or to seat a translucent lid, i.e. the upper edges are considered capable of the intended use recited.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5, 7-9, 12 and 18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schneeweiss. Schneeweiss discloses a

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container including two elongated compartments with a panel 20a attached to the front wall of one of the compartments and providing a greater resistance to penetration at the panel than remaining portions of the container due to the double thickness of material. The container of Schneeweiss is considered capable of being placed within an automotive vehicle. Alternatively, it would have been obvious to size the container of Schneeweiss to fit within an automotive vehicle as a mere change in the size of the container to fit a desired storage space and/or to carry a given size of content. Sizing of a container is within the level of skill in this art. With respect to claims 3 and 4, the container in Schneeweiss includes a ledge formed by the upper edges of the container. No distinction is seen between the container claimed and that in Schneeweiss as a result of the claimed intended use of the ledge or upper edge to seat a lid or to seat a translucent lid, i.e. the upper edges are considered capable of the intended use recited. With respect to claim 5, note is made of the lids 20L and 22L.

5. Claims 2-5, 7-9, 12 and 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Collins. Collins discloses a container including two elongated compartments with a panel 162 attached to the front wall of one of the compartments and providing a greater resistance to penetration at the panel than remaining portions of the container due to the double thickness of material and the strip 70 within the panel. The container of Collins is considered capable of being placed within an automotive vehicle. Alternatively, it would have been obvious to size the container of Collins to fit within an automotive vehicle as a mere change in the size of the container to fit a desired storage space and/or to carry a given size of content. Sizing of a container is within the level of skill in this art. With respect to claims 3, 4, 15 and 16, the container in Collins includes a ledge formed by the

upper edges of the container. No distinction is seen between the container claimed and that in Collins as a result of the claimed intended use of the ledge or upper edge to seat a lid or to seat a translucent lid, i.e. the upper edges are considered capable of the intended use recited. With respect to claim 5, note is made of the lids 122 and 124 which extend over the compartments in the manner claimed. With respect to claim 7, the divider 150 in Collins is considered to extend vertically from the body insofar as it extends vertically from the bottom of the body insofar as claimed. With respect to claim 14, the penetration resistance of the panel 162 at the tape 70 is considered to be greater than remaining portions of the walls of the compartments. The compartments are considered to be the interior space on each side of the divider 150 insofar as claimed.

6. Claims 2-4, 7-9, 12 and 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hutchison. Hutchison discloses a container including two elongated compartments (see fig. 11) with a panel (frame 42) attached to the front wall of one of the compartments and providing a greater resistance to penetration at the panel than remaining portions of the container body at the panel. The container of Hutchison is considered capable of being placed within an automotive vehicle. Alternatively, it would have been obvious to size the container of Hutchison to fit within an automotive vehicle as a mere change in the size of the container to fit a desired storage space and/or to carry a given size of content. Sizing of a container is within the level of skill in this art. With respect to claims 3, 4, 15 and 16, the container in Hutchison includes a ledge formed by the upper edges of the container. No distinction is seen between the container claimed and that in Hutchison as a result of the claimed intended use of the ledge or upper edge to seat a lid or to seat a translucent lid, i.e.

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the upper edges are considered capable of the intended use recited. With respect to claim 7, the dividers in Hutchison are considered to extend vertically from the body insofar as it extends vertically from the bottom of the body insofar as claimed. With respect to claim 14, the penetration resistance of the panel 42 at the wood sections is considered to be greater than remaining portions of the walls of the compartments, i.e. at the paperboard panels.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins, as applied in paragraph 5 above to claim 5, and further in view of Huspeka et al. Collins or modified Collins fails to evidence a recessed or tray top lid. Huspeka et al teaches that it is known to form the lid on a carton using a separate recessed lid. It would have been obvious to substitute a separate lid for the lid flaps in Collins as taught by Huspeka et al to allow stacking of multiple like containers.

Allowable Subject Matter

8. Claims 10, 13, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The withdrawal of the indication of allowable subject matter in light of the newly applied prior art above is regretted.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

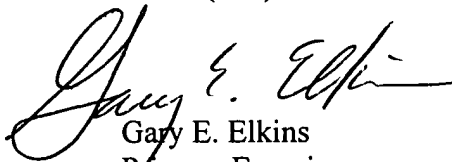
Conclusion

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Tuesday and Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727